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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,965	04/27/2001	Sally Kay Swart	163.1385US01	1666

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EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/844,965	Applicant(s) SWART ET AL.	
	Examiner Krisanne Jastrzab	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 18-33, 36-47, 50-60, 63-72, 75-98, 100 and 102-118 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 18-33, 36-47, 50-60, 63-72, 75-98, 100 and 102-118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14, 18-33, 36-47, 50-60, 63-72, 75-98, 100 and 102-118 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly amended limitation to treating the object "without immersion" does not properly find support in the disclosure as originally filed, in fact, page 2, lines 23-26 clearly teaches that the apparatus is constructed to treat the object with immersion or spraying, not excluding immersion.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43, 45-47 and 50-54 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Moyers U.S. patent No. 6,090,213.

Moyers teaches an automated cleaning system configured with a variety of stations. Ultrasonic cleaning with liquid circulation is achieved within a tank means wherein the object being treated is immersed. The object is washed, rinsed, cleaned and then dried by the application of heated air circulated by a blower. Each treatment can be performed in a separate station. See Fig. 1, and column 3, line 3 through column 4, line 5 and the claims.

Claim 77 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB 947,700.

'700 teaches sterilization of articles by placing them within a vessel, supported by basket means, and immersing the articles within a cleaning liquid including one having sodium bicarbonate therein (see page 2, lines 84-95). The cleaning liquid being both circulated within the vessel and sonicated therein as well. The articles are then rinsed via a spray of a rinse liquid and subsequently treated with a gaseous sterilant such as ethylene oxide (page 2, line 110 through page 3, line 15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 55-56, 58-60, 63-68, 70-72 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers.

Moyers clearly teaches the provision of a variety of stations for article treatment and it would have been well within the purview of one of ordinary skill in the art to add as many as determined to be required to optimize treatment of the article.

Claims 3-4, 6-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers as applied to claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40,

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42-43, 45-47, 50-60, 63-68, 70-72 and 75 above, and further in view of Hohmann et al., U.S. patent No. 4,710, 233.

Hohmann et al., teaches the use of both ultrasonic transducers mounted on the outside of a treatment tank as well as an ultrasonic probe means within the tank acting directly on the support for objects to be treated (see Fig 2, element 17) because the combination increases effective ultrasonic activity therefor enhancing treatment.

It would have been obvious to one of ordinary skill in the art to include the ultrasonic probe means of Hohmann et al., in the system of Moyers because it would optimize ultrasonic activity thereby enhancing cleaning treatment.

Claims 26-28, 41, 44, 57, 69, 76, 78-84, 87-92, 94-95, 97-98, 100, 103-110 and 112-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers as applied to claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43, 45-47, 50-60, 63-68, 70-72 and 75 above, and further in view of GB 947,700.

It would have been well within the purview of one of ordinary skill in the art to include a gaseous sterilant injection means as taught in GB 947,700 in the system of Moyers because it would provide for highly effective microscopic sterilization of the objects in addition to the optimized level of physical cleanliness achieved thereby.

Claims 30, 85-86, 102 and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers together with GB 947,700 as applied to claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43, 45-47, 50-60, 63-68, 70-72, 75-76, 78-84, 87-92, 94-95, 97-98, 100, 103-110 and 112-118 above, and further in view of GB 2,040,150 A, Aussenac.

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Aussenac clearly teaches the inclusion of a radiation source within a system comparable to that of the combination above, namely treatment of articles with a series of sonification, liquid circulation, rinsing and drying, wherein the radiation source (UV) is applied to enhance both sterilization and heating of the liquids utilized in the system.

It would have been obvious to one of ordinary skill in the art to include the radiation means as taught in Aussenac within the system of the combination above because it would enhance both the liquid treatment with heating and act to sterilize within the system as well.

Claims 93 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyer together with GB 947,700 as applied to claims 1-2, 5, 9-11, 14, 18-25, 29, 31-33, 36-40, 42-43, 45-47, 50-60, 63-68, 70-72, 75-76, 78-84, 87-92, 94-95, 97-98, 100, 103-110 and 112-118 above, and further in view of Hohmann et al.

Hohmann et al., is applied as set forth above.

It would have been obvious to one of ordinary skill in the art to include the ultrasonic probe means of Hohmann et al., in the system of the combination above because it would optimize ultrasonic activity thereby enhancing cleaning treatment.

Response to Arguments

Applicant's arguments filed 10/14/2004 have been fully considered but they are not persuasive. Applicant argues that the applied references fail to teach treatment without immersion of the object, however, the amended limitation that this argument is based on has been found to be new matter, failing to find proper support in the specification, and therefore provides no patentable distinction to the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KRISANNE THORNTON
PRIMARY EXAMINER

Krisanne Jastrzab
Primary Examiner
Art Unit 1744

December 17, 2004